THE HON'BLE MR JUSTICE V.V.S.RAO

–

WRIT PETITION NO : 17897 of 2005

And

WRIT PETITION NO : 18535 of 2005

–

–

Dated:13.09.2005

–

WRIT PETITION NO : 17897 of 2005

Between:

Maroju Sarojini, W/o. Sri Akavaram Kishan Rao,
R/o.HIG, LIG.236, Phase-1, A.P.Housing Board Colony, Bhingir (PO)
Nalgonda District.

..... PETITIONER

AND

State of Andhra Pradesh., Rep.by its Principal Secretary, Housing
Secretariat Buildings Hyderabad, and another.

.....RESPONDENTS

WRIT PETITION NO : 18535 of 2005

Between:

Maroju Sarojini, W/o.Sri Akavaram Kishan Rao,
R/o.H.No.LG 236, Phase-I, A.P.Housing Board Colony, Bhongir (PO),

Nalgonda district.

..... PETITIONER

AND

State of A.P., Rep by its Prl.Secretary, Housing , Secretariat Buildings, Hyderabad, and others.

.....RESPONDENTS

COMMON ORDER:

One Maroju Sarojini, a resident of Nalgonda District, is the petitioner in both the writ petitions. The dispute between the petitioner and the A.P.Housing Board is in relation to the allotment of a constructed house bearing No.A-43, Flat No.202 in Singapore Class Township, Pocharam.

The fact of the matter, which is not disputed, in brief is as follows. The A.P.Housing Board, the second respondent in both the writ petitions developed/developing Singapore Class, is a colony at Pocharam in Ranga Reddy District. Pursuant to an advertisement issued by the Housing Board, the petitioner sent an application for allotment of a flat. By allotment order dated 11.12.2001, the petitioner was allotted flat No.A-43, 202 in this township. After allotment, according to the petitioner the flat was handed over, though it is alleged that there was a delay in handing over possession. Be that as it is, the Housing Board executed a sale deed and registered the same on 08.07.2005 after collecting the entire amount of Rs.8,00,000/-. Not being happy, it appears the petitioner made complaints about lack of civic amenities and various other problems being faced by the petitioner and other allottees. The Executive Engineer of the Housing Board, after considering the compliant of the petitioner issued a notice/letter dated 14.07.2005 informing the petitioner that as the petitioner is spreading dissatisfaction, in the interest of the petitioner and the A.P.Housing Board, the allotment made is cancelled. The Executive Engineer also enclosed a cheque for a sum of Rs.8,14,299/-. Assailing the same, the petitioner filed W.P.No.17897 of 2005.

This Court admitted the writ petition on 12.08.2005 and passed interim orders directing the Housing Board not to interfere with the petitioner's possession and enjoyment of Flat No.A-43, 202, situated at Singapore Class Township, Pocharam.

When the said writ petition is pending before this Court, it appears the second respondent approached the Sub Registrar of Registration Department, Ghatkesar, Ranga Reddy District, for cancellation of the sale deed, dated 08.07.2005, executed in favour of the petitioner by the Housing Board. The Sub Registrar, Ghatkesar, Ranga Reddy District, sent a notice, dated 11.08.2005 to the petitioner informing that cancellation deed vide document No.5357 of 2005 is registered in the office of the Sub Registrar executed by the vendor, namely the A.P.Housing Board, cancelling the earlier sale deed dated 08.07.2005. The petitioner obtained a copy of the cancellation deed and filed W.P.No.18535 of 2005 declaring the action of the respondents in cancelling the earlier sale deed as without jurisdiction and illegal.

The learned counsel for the petitioner raised two contentions. First, he submitted that when once the Housing Board allots the flat duly executing the registered sale deed in favour of the allottee, the Housing Board has no power or authority to cancel the allotment. Secondly, it is contended that the Sub Registrar (the third respondent in W.P.No.18535 of 2005) has no power or authority to cancel the sale deed at the instance of the vendor. Reliance is placed on the decision of this Court in **Property Association of Baptist Churches v. Sub Registrar, Jangaon, Warangal**.

The Executive Engineer, A.P.Housing Board has filed a counter affidavit. It is stated that the husband of the petitioner started misinformation campaign making false statements touching upon the quality of the construction in the Singapore Class Township, Pocharam, and also objecting the cost of various houses in Singapore Class Township. As several flats/properties in other ventures are required to be sold, Housing Board thought that any false propaganda would lead to loss. Therefore, finding no alternative, the Executive Engineer cancelled the allotment, as the petitioner was not satisfied with the construction, duly refunding the cost of the flat along with registration charges. Thereafter, in view of the peculiar situation, the Housing Board approached the Sub Registrar for cancellation of the sale deed.

In the reply affidavit filed by the petitioner, the allegation that the petitioner's husband complained about the quality of the construction and the cost of the construction is denied. It is further stated that the Association of Flat Owners representing 168 allottees made a representation to the Chief Minister of Andhra Pradesh and that the petitioner or her husband never gave any complaint regarding quality of construction. The petitioner also highlighted the hardship that would be vested by her if the allotment and registration is cancelled.

The factual background leading to filing of these two writ petitions is rather peculiar. However, in the reply affidavit the petitioner denied that she ever made any complaint regarding quality of the construction by the Housing Board. Therefore, it would be in the interest of the petitioner as well as the Housing Board if the matter is reconsidered by the Vice Chairman and Managing Director, especially when it is admitted in the counter that there are flats yet to be allotted in Singapore Class Township, Pocharam.

The petitioner is given a week's time from the date of receipt of a copy of this order, to approach the Vice Chairman and Managing Director by making a

representation, in which event necessary steps may be taken for cancellation of the cancellation deed, within a period of a one week thereafter.

The writ petitions are accordingly disposed of. No costs.

_____

(V.V.S.RAO, J)

13.09.2005

Note: Issue C.C by 19.09.2005

B/o.

vs